

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

UNITED STATES OF AMERICA

v.

**DON EUGENE SIEGELMAN,
PAUL MICHAEL HAMRICK,
GARY MACK ROBERTS, and
RICHARD M. SCRUSHY**

CRIMINAL NO. 2:05-CR-119-MEF

**UNITED STATES' RESPONSE TO DEFENDANT GARY MACK
ROBERTS' PROPOSED VOIR DIRE**

COMES NOW the United States of America, by and through Louis V. Franklin, Sr., Acting United States Attorney for the Middle District of Alabama, and Andrew C. Lourie, Acting Chief of the Public Integrity Section of the Criminal Division of the United States Department of Justice, hereby files its Response to Defendant Gary Mack Roberts' Requested Voir Dire and says as follows:

1. The United States objects to question numbers 3b and 3c as irrelevant and unnecessarily invasive of the privacy of the jurors. The United States respectfully submits that the proper line of questioning on learning if a juror has heard anything about the case is "if instructed by the court that the law requires you to put what you heard aside and decide this case based solely on the evidence presented during the trial can you and will you follow that instruction." The problem with the type of question submitted by Roberts is that it elicits information from a juror which quite wrongly makes them believe or feel that they have revealed information that will cause them to appear foolish or less than candid unless they admit as an answer to the next question that they may have at least some marginal preconceived notion about an issue. If first informed of the requirement in the law that they not be influenced by what they have heard or read, most jurors can quite readily follow such instructions and quickly state that they can and will do so, so as to be fair and open-

minded until the conclusion of the case and decide the case based solely on the evidence introduced during the trial.

2. The United States objects to question number 6 because it is irrelevant, not a proper basis for excluding a juror, and invades the privacy of the juror.

3. The United States objects to question number 7 because it is irrelevant and contains either no statement or an incomplete statement as to the law regarding treatment by jurors of the testimony of cooperating witnesses. It therefore creates an undue risk that a juror, without the benefit of the Court's guidance on the treatment of such witnesses, will take a position regarding cooperating witnesses that they will, out of fear of appearing foolish or less than candid, be reluctant to agree to abandon when once properly and fully informed of the law. Therefore, this question prejudices the United States' right to a fair trial because it may exclude fair and impartial jurors from the jury venire because of confusion.

4. The United States objects to question number 8 because it is argumentative and incorrectly and/or incompletely states the law regarding the right of a defendant not to incriminate themselves.

Respectfully submitted this 10th day of April, 2006.

LOUIS V. FRANKLIN, SR.
ACTING UNITED STATES ATTORNEY

/s/ Louis V. Franklin, Sr.
Acting United States Attorney
One Court Square, Suite 201
Montgomery, AL 36104
Phone: (334)223-7280
Fax: (334)223-7560
Email: louis.franklin@usdoj.gov

/s/ J.B. Perrine
Assistant United States Attorney
One Court Square, Suite 201
Montgomery, AL 36104
Phone: (334)223-7280
Fax: (334)223-7135
Email: jb.perrine@usdoj.gov
ASB-9077-E31J

/s/ Jennifer Garrett
Special Assistant United States Attorney
Assistant Attorney General
Office the Attorney General
11 S. Union
Montgomery, AL 36130
Phone: (334)353-8494
Fax: (334)242-4890
Email: jgarrett@ago.state.al.us
ASB-4600-T77J

/s/ Stephen P. Feaga
Assistant United States Attorney
One Court Square, Suite 201
Montgomery, AL 36104
Phone: (334)223-7280
Fax: (334)223-7560
Email: steve.feaga@usdoj.gov
ASB-7374A60S

ANDREW C. LOURIE
ACTING CHIEF, PUBLIC INTEGRITY
SECTION

/s/Richard C. Pilger
Department of Justice, Criminal Division
Public Integrity Section
10th & Constitution Ave, NW
Bond Building - 12th Floor
Washington, DC 20530
Phone: (202)514-1412
Fax: (202)514-3003
Email: richard.pilger@usdoj.gov

/s/ Joseph L. Fitzpatrick, Jr. Special Assistant
United States Attorney
Assistant Attorney General
Office of the Attorney General
11 S. Union
Montgomery, AL 36130
Phone: (334)353-4839
Fax: (334)242-4890
Email: j.fitzpatrick@ago.al.state.us

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

| | | |
|---------------------------------|---|-------------------------------------|
| UNITED STATES OF AMERICA |) | |
| |) | |
| v. |) | |
| |) | CRIMINAL NO. 2:05-CR-119-MEF |
| DON EUGENE SIEGELMAN, |) | |
| PAUL MICHAEL HAMRICK, |) | |
| GARY MACK ROBERTS, and |) | |
| RICHARD M. SCRUSHY |) | |

CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

Respectfully submitted,

LOUIS V. FRANKLIN, SR.
ACTING UNITED STATES ATTORNEY

/s/ Stephen P. Feaga
Assistant United States Attorney
One Court Square, Suite 201
Montgomery, AL 36104
Phone: (334)223-7280
Fax: (334)223-7560
Email: steve.feaga@usdoj.gov
ASB-7374-A60S